

REMARKS

In the non-final Office Action, the Examiner rejects claims 8, 12, 14, and 16 under 35 U.S.C. § 103(a) as unpatentable over HASKIN et al. (U.S. Patent No. 6,813,242) in view of HSING et al. (U.S. Patent No. 6,167,025), and further in view of KATZELA et al. (U.S. Patent No. 5,872,773); rejects claim 14 under 35 U.S.C. § 103(a) as unpatentable over HASKIN et al. in view of SALEH (U.S. Patent No. 7,002,917), and further in view of MARGILL (U.S. Patent No. 6,606,297); allows claims 13, 17, 18, 20, and 21; and objects to claims 9-11 as allowable if rewritten in independent form. Applicants respectfully traverse these rejections.¹

By way of the present amendment, Applicants cancel claim 9 without prejudice or disclaimer of the subject matter thereof, and amend claims 8, 10-14, and 17 to improve form. No new matter has been added by way of the present amendment. Claims 8, 10-14, 16-18, 20, and 21 are pending.

Allowable subject matter

Applicants appreciate the indication that claims 13, 17, 18, 20, and 21 are allowable over the art of record. Applicants further appreciate the indication that claims 9-11 would be allowable if rewritten into independent form to include the features of the base claim and any intervening claims. By way of the present amendment, Applicants rewrite claim 11 into independent form. Thus, claim 11 is in condition for immediate allowance.

¹ As Applicants' remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicants' silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., whether a reference constitutes prior art, reasons to modify a reference and/or combine references, assertions as to dependent claims, etc.) is not a concession by Applicants that such assertions are accurate or such requirements have been met, and Applicants reserve the right to analyze and dispute such assertions/requirements in the future.

Rejection under 35 U.S.C. § 103(a) based on HASKIN et al., HSING et al., and KATZELA et al.

Claims 8, 12, 14, and 16 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over HASKIN et al. in view of HSING et al., and further in view of KATZELA et al. Applicants respectfully traverse this rejection.

While not acquiescing in the rejection of claim 8, but merely to expedite prosecution, Applicants amend independent claim 8 herein to include the features of canceled claim 9, which has been indicated as allowable if rewritten into independent form. Thus, Applicants submit that independent claim 8 is in condition for immediate allowance.

Claims 12 and 16 depend from independent claim 8. Therefore, these claims are in condition for immediate allowance for at least the reasons given above with respect to independent claim 8.

While not acquiescing in the rejection of claim 14, but merely to expedite prosecution, Applicants amend independent claim 14 herein to include the features of claim 11, which has been indicated as containing allowable subject matter. Applicants submit that HASKIN et al., HSING et al., and KATZELA et al., whether taken alone or in any reasonable combination, do not disclose or suggest, for example, that the determining an alternative route further includes determining a shortest route from a node preceding the failed element to the destination device within the network, refining the route to exclude the failed element on the initial route, and establishing the alternative route for forwarding packets, as currently recited in claim 14.

For at least the foregoing reasons, Applicants submit that claim 14 is patentable over HASKIN et al., HSING et al., and KATZELA et al., whether taken alone or in any

reasonable combination. Accordingly, Applicants respectfully request that the rejection of claim 14 under 35 U.S.C. § 103(a) based on HASKIN et al., HSING et al., and KATZELA et al. be reconsidered and withdrawn.

*Rejection under 35 U.S.C. § 103(a) based on HASKIN et al., SALEH,
and MARGILL*

Claim 14 stands rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over HASKIN et al. in view of SALEH, and further in view of MARGILL. Applicants respectfully traverse this rejection.

While not acquiescing in the rejection of claim 14, but merely to expedite prosecution, Applicants amend independent claim 14 herein to include the features of claim 11, which has been indicated as containing allowable subject matter. Applicants submit that HASKIN et al., SALEH, and MARGILL, whether taken alone or in any reasonable combination, do not disclose or suggest, for example, that the determining an alternative route further includes determining a shortest route from a node preceding the failed element to the destination device within the network, refining the route to exclude the failed element on the initial route, and establishing the alternative route for forwarding packets, as currently recited in claim 14.

For at least the foregoing reasons, Applicants submit that claim 14 is patentable over HASKIN et al., SALEH, and MARGILL, whether taken alone or in any reasonable combination. Accordingly, Applicants respectfully request that the rejection of claim 14 under 35 U.S.C. § 103(a) based on HASKIN et al., SALEH, and MARGILL be reconsidered and withdrawn.

Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully request the Examiner's reconsideration of this application, and the timely allowance of the pending claims. As indicated above, Applicants respectfully submit that the present amendment places the application in immediate condition for allowance.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-1070 and please credit any excess fees to such deposit account.

Respectfully submitted,

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